



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

**VIA ELECTRONIC MAIL  
RETURN RECEIPT REQUESTED**

Bruce Richman, Owner  
S.D. Richman Sons, Inc.  
2435 Wheatsheaf Lane  
Philadelphia, PA 19137  
[bruce@sdrichmansons.com](mailto:bruce@sdrichmansons.com)

**Re: Notice of Violation and Opportunity to Confer  
Clean Air Act, Section 113(a)**

Dear Mr. Richman:

The U.S. Environmental Protection Agency ("EPA") is issuing the enclosed Notice of Violation and Opportunity to Confer ("NOVOC") to S.D. Richman Sons, Inc. ("S.D. Richman"). The EPA is issuing this NOVOC under Section 113(a) of the Clean Air Act ("CAA" or "Act"), 42 U.S.C. § 7413(a). Based on information currently available and described in detail in the attached document, the EPA finds that S.D. Richman is in violation of the provisions of the Pennsylvania State Implementation Plan, including Pennsylvania permitting requirements, and in violation of Title V of the CAA and 25 Pa. Code §§ 127.501-127.543. Section 113(a) of the Act provides the EPA several enforcement options to resolve these violations.

By this letter, the EPA is extending to you an opportunity to advise the EPA, via a conference call, or in writing, of any further information the EPA should consider with respect to the alleged violations.

The EPA contact in this matter is Kim Laufenberg and she may be reached at 215-814-2265 or [laufenberg.kim@epa.gov](mailto:laufenberg.kim@epa.gov). If you are represented by counsel, they may contact Hannah Leone, Assistant Regional Counsel at (215) 814-2673 or [leone.hannah@epa.gov](mailto:leone.hannah@epa.gov) **within thirty (30) days** following receipt of this NOVOC if S.D. Richman would like to schedule such a conference.

Sincerely,

Karen Melvin, Director  
Environmental & Compliance Assurance Division

Enclosure (1)

cc: Hannah Leone, Esq., EPA ([leone.hannah@epa.gov](mailto:leone.hannah@epa.gov))  
Kim Laufenberg, EPA ([laufenberg.kim@epa.gov](mailto:laufenberg.kim@epa.gov))

*Re: Notice of Violation and Opportunity to Confer  
Clean Air Act, Section 113(a)*

Laura Nikkel-Dumyahn, Philadelphia Air and Management Services  
([Laura.NikkelDumyahn@Phila.gov](mailto:Laura.NikkelDumyahn@Phila.gov))

Tom Barsley, Philadelphia Air Management Services ([thomas.barlsey@phila.gov](mailto:thomas.barlsey@phila.gov))

Peter Brussock, The Elm Group, Inc. ([ppbrussock@elminc.com](mailto:ppbrussock@elminc.com))

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, PA 19103**

<b>In the Matter of:</b>	:	
	:	<b>NOTICE OF VIOLATION AND</b>
<b>S.D. Richman Sons, Inc.</b>	:	<b>OPPORTUNITY TO CONFER</b>
<b>2435 Wheatsheaf Lane</b>	:	
<b>Philadelphia, PA 19137</b>	:	<b>U.S. EPA Docket No. CAA-003-21-0003</b>
	:	
<b>Respondent.</b>	:	<b>Proceeding Pursuant to Section 113(a) of the</b>
	:	<b>Clean Air Act, 42 U.S.C. § 7413(a)</b>

**NOTICE OF VIOLATION**

This Notice of Violation and Opportunity to Confer (“NOVOC”) serves as the finding and notice required under Section 113(a) of the Clean Air Act (“CAA” or the “Act”), 42 U.S.C. § 7413(a). The EPA alleges that S.D. Richman Sons, Inc. (“S.D. Richman” or “Respondent”) has violated the Pennsylvania State Implementation Plan (“PA SIP”), including Pennsylvania permitting requirements and has violated Title V of the CAA and 25 Pa. Code §§ 127.501-127.543, at its metal scrap shredding facility located in Philadelphia, Pennsylvania. The authority to issue this NOVOC has been delegated to the Director of the EPA Region III’s Enforcement and Compliance Assurance Division.

**I. STATUTORY AND REGULATORY BACKGROUND**

1. The CAA, 42 U.S.C. §§ 7401, *et seq.*, establishes a comprehensive program to “protect and enhance the quality of the Nation’s air resources so as to promote the welfare and productive capacity of its population.” 42 U.S.C. § 7401(b)(1).

**National Ambient Air Quality Standards**

2. Section 108(a) of the CAA, 42 U.S.C. § 7408(a), requires the Administrator of the EPA to identify and prepare air quality criteria for each air pollutant, emissions of which may endanger public health or welfare, and the presence of which results from numerous or diverse mobile or stationary sources. These pollutants are known as “criteria pollutants.” 42 U.S.C. § 7408.
3. Section 109 of the CAA, 42 U.S.C. § 7409, requires the EPA to promulgate regulations establishing primary and secondary national ambient air quality standards (“NAAQS”) for each criteria pollutant. The primary NAAQS shall be sufficient to protect the public health, allowing an adequate margin of safety, and the secondary NAAQS shall be sufficient to protect the public welfare from any known or anticipated effects associated with the presence of the air pollutants in the air.
4. Pursuant to Section 108 and 109 of the CAA, 42 U.S.C. §§ 7408 and 7409, the EPA has identified ground-level ozone, among others, as a criteria pollutant, and has promulgated NAAQS for this pollutant.

5. Certain precursors to ozone formation, such as volatile organic compounds (“VOC”) and nitrogen oxides (“NO<sub>x</sub>”), are regulated as part of the air quality standards for ozone itself. 40 C.F.R. §§ 50.6-50.11. Ozone is not emitted directly from sources of air pollution. Ozone is a photochemical oxidant formed when VOC and NO<sub>x</sub> react in the presence of sunlight. VOC and NO<sub>x</sub> are called “ozone precursors.” Sources that emit ozone precursors are regulated to reduce ground-level ozone. 62 Fed. Reg. 38,856 (July 18, 1997).
6. Under Section 107(d) of the CAA, 42 U.S.C. § 7407(d), each state is required to designate those areas within its boundaries where the air quality either meets or does not meet the NAAQS for each criteria pollutant, or where the air quality cannot be classified due to insufficient data. An area that meets the NAAQS for a particular criteria pollutant is termed an “attainment area” with respect to such pollutant. An area that does not meet the NAAQS for a particular criteria pollutant is termed a “nonattainment area” with respect to such pollutant.
7. Section 110(a) of the CAA, 42 U.S.C. § 7410, requires each state to adopt and submit to the Administrator of the EPA for approval a State Implementation Plan (“SIP”) that provides for the implementation, maintenance, and enforcement of such NAAQS. Once approved by the EPA, these SIPs are federally enforceable. 42 U.S.C. § 7410(a)(5)(A)(i).
8. Each SIP must include enforceable emission limitations and other control measures, and regulation of the modification and construction of any stationary source within the areas covered by the SIP as necessary to meet the applicable requirements of the CAA. 42 U.S.C. § 7410(a)(2)(A).
9. Upon the EPA’s approval, SIP requirements are federally enforceable under Section 113 of the CAA. 42 U.S.C. § 7413(a) and (b).

### **The Pennsylvania State Implementation Plan**

10. Pursuant to Section 110 of the CAA and Sections 4(1) and 5 of the Pennsylvania Air Pollution Control Act (“APCA”), 35 P.S. §§ 4004-4005, the Commonwealth of Pennsylvania adopted regulations that comprise the PA SIP. The PA SIP regulations as approved by the EPA are set forth in 40 C.F.R. § 52.2020.
11. The PA SIP regulations governing permitting for stationary source operations are currently codified at 25 Pa. Code Ch. 127. Relevant portions of Chapter 127 were included in the PA SIP approved by the EPA on July 30, 1996. 61 Fed. Reg. 39,597 (July 30, 1996), *as amended*.
12. Pursuant to Section 4(1) of the APCA, 35 P.S. § 4004(1), the Pennsylvania Department of Environmental Protection (“PADEP”) is authorized to implement the provisions of the CAA.
13. Philadelphia’s Department of Public Health, Air Management Services (“AMS”) was granted the power to implement regulatory requirements, promulgated by the PADEP applicable to Philadelphia County, on July 1, 1998. Agreement for Implementation of the Philadelphia County Air Pollution Control Program (July 1, 1998).

### **Pennsylvania New Source Review**

Re: *Notice of Violation and Opportunity to Confer*  
*Clean Air Act, Section 113(a)*

14. Pursuant to 25 Pa. Code § 127.201(a), “[a] person may not cause or permit the construction or modification of an air contamination facility in a nonattainment area or having an impact on a nonattainment area unless the Department or an approved local air pollution control agency has determined that the requirements of this subchapter have been met.” This determination is referred to as “New Source Review” and is made in accordance with 25 Pa. Code § 127.203a.
15. New Source Review applies to an owner or operator of a facility located in Philadelphia County if the aggregated emissions determined exceed 25 tons per year (“TPY”) of NO<sub>x</sub> or VOC. 25 Pa. Code § 127.203(b)(1); *see also* 25 Pa. Code § 127.201(f).
16. Subchapter F (Operating Permit Requirements), 25 Pa. Code §§ 127.401-127.464, describes the operating permit program requirements for stationary sources.

### **Pennsylvania Title V Permitting Program**

17. Subchapter G (Title V Operating Permits), 25 Pa. Code §§ 127.501-127.543, describes the additional operating permit program requirements applicable to Title V facilities in addition to applicable requirements in Subchapter F, 25 Pa. Code §§ 127.401-127.464.
18. A “Title V facility” is defined, among other things, as “[a] major stationary source as defined in Title I, Part D of the Clean Air Act (42 U.S.C. §§ 7501--7515), including: (A) For ozone nonattainment areas, sources with the potential to emit . . . 25 TPY or more in areas classified as ‘severe.’” 25 Pa. Code § 121.1
19. Any stationary source located in Philadelphia County that emits or has the potential to emit at least 25 TPY of VOC is considered a major facility and is subject to the requirements applicable to a major source located in a severe nonattainment area for ozone. 25 Pa. Code § 121.1.
20. “Potential to emit” (“PTE”) is defined as, “the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and limitations on hours of operation or on the type or amount of material combusted, stored or processed shall be treated as part of its design if the limitation or the effect it would have on emissions is Federally enforceable or legally and practicably enforceable by an operating permit condition.” 25 Pa. Code § 121.1.
21. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), prohibits the operation of a major source except those in compliance with a permit issued by a permitting authority under Title V of the CAA.

## **II. FACTUAL BACKGROUND**

22. S.D. Richman is the owner and operator of a metal scrap shredding facility (SIC Code 5093), located at 2435 Wheatsheaf Lane, Philadelphia, PA 19137 (hereinafter “the Facility”).
23. Respondent began operating the metal shredder at the Facility in August 2018.
24. The Facility received a Natural Minor Operating Permit (No. OP19-000003) from AMS on April 29, 2019.

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*Clean Air Act, Section 113(a)*

25. On June 19, 2019, the EPA conducted a CAA inspection (“Inspection”) at the Facility to verify compliance with applicable State and Federal regulations.
26. On July 31, 2019, the EPA sent S.D. Richman an Air Compliance Inspection Report, summarizing the EPA’s Inspection at the Facility.
27. By a letter dated January 22, 2020, the EPA sent S.D. Richman a “Notice of Noncompliance/Opportunity to Show Cause” (“NON”), describing potential violations of the PA SIP and the CAA found by the EPA after further investigation into the operations at the Facility following the Inspection.
28. On January 31, 2020, the Respondent replied to the EPA’s NON requesting additional information regarding the allegations made in the NON.
29. On August 3, 2020, the EPA provided Respondent with performance test data used by the EPA in evaluating the Facility’s compliance with applicable CAA requirements.
30. The EPA has collected data from emissions test reports from similar metal shredding facilities located across the United States with comparable feedstock and feed rate to S.D. Richman’s Facility.
31. The data from these emissions test reports, referenced above in Paragraph 30, was used by the EPA to formulate S.D. Richman’s PTE VOC for the metal shredder at its Facility. Utilizing the emissions data from these emissions test reports, along with the maximum throughput of the Facility’s shredder and maximum operational hours, the EPA calculated S.D. Richman’s PTE VOC to be at least 25 TPY. Therefore, S.D. Richman’s Facility is a major facility pursuant to 25 Pa. Code § 121.1 and 25 Pa. Code § 127.201(f).

### **III. FINDINGS OF VIOLATIONS**

#### **Construction of an Air Contamination Source Without Approval**

32. S.D. Richman’s Facility is located in Philadelphia, PA and has the PTE at least 25 TPY of VOC.
33. S.D. Richman’s Facility is subject to New Source Review pursuant to 25 Pa. Code §§ 127.201(f) and 127.203(b)(1).
34. S.D. Richman constructed the metal shredder at its Facility in August 2018 without prior New Source Review and approval by AMS in violation of 25 Pa. Code § 127.201(a).
35. S.D. Richman’s failure to comply with 25 Pa. Code § 127.201(a) is a violation of the PA SIP, and Section 110 of the CAA, 42 U.S.C. § 7410.

#### **Failure to Apply for a Title V Operating Permit**

36. S.D. Richman’s Facility is located in Philadelphia, PA and has the PTE at least 25 TPY of VOC.

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*Clean Air Act, Section 113(a)*

37. S.D. Richman's Facility is a "Title V Facility" as that term is defined in 25 Pa. Code § 121.1 because it is a "major stationary source" as defined in Title I, Part D of the CAA (42 U.S.C. §§ 7501--7515) as it has the PTE at least 25 TPY VOC.
38. Since at least August 2018, S.D. Richman has operated its Facility without obtaining a Title V operating permit.
39. S.D. Richman's failure to apply for and obtain a Title V operating permit for the operation of its Facility, is a violation of Section 502(a) of the CAA, 42 U.S.C. § 7661a(a).

#### **IV. ENFORCEMENT PROVISIONS**

40. Section 113(a) of the CAA, 42 U.S.C. § 7413(a) provides that whenever on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any requirement or prohibition of an applicable SIP or Title V of the CAA, the Administrator has several enforcement options to resolve these violations.
41. The EPA is extending S.D. Richman an opportunity to advise the EPA, via a conference call, or in writing, of any further information the EPA should consider with respect to the alleged violations. Please reply, within thirty (30) calendar days following receipt of this letter to Kim Laufenberg at 215-814-2265 or [laufenberg.kim@epa.gov](mailto:laufenberg.kim@epa.gov), or if you are represented by counsel, have your counsel reply to Hannah Leone, Assistant Regional Counsel, at (215) 814-2673 or [leone.hannah@epa.gov](mailto:leone.hannah@epa.gov) as to whether S.D. Richman would like to schedule such a conference. The EPA may pursue enforcement options if there is no response to this letter.

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Date

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Karen Melvin, Director  
Enforcement & Compliance Assurance Division  
U.S. EPA, Region III